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REGULATIONS

governing

INSPECTION

and

CERTIFICATION

of

PROCESSED FRUITS AND VEGETABLES

and

RELATED PRODUCTS

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
FRUIT AND VEGETABLE DIVISION
PROCESSED PRODUCTS STANDARDIZATION AND INSPECTION BRANCH

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Agricultural Marketing Service makes available an impartial, official inspection service for processed fruits and vegetables. Applicants may make use of this service to obtain inspection of any of these products in which they have a financial interest. The service is voluntary and self-supporting and is offered on a fee-for-service basis through the Fruit and Vegetable Division, AMS.

Inspection aids in the orderly marketing of products in many respects. It helps the buyer or the seller determine if the terms of contracts or purchase orders have been met. It helps establish loan values and supplements in-plant quality control programs. Inspection helps in settling claims for damage incurred in transit or storage.

The Regulations in this publication contain the rules that govern inspection and certification of processed products, including sampling, fees, sanitary requirements for approved plants, and related matters.

HOW TO GET INSPECTION SERVICE

Further information regarding the inspection service may be obtained by contacting the Officer In Charge, Processed Products Standardization and Inspection Branch, Fruit & Vegetable Division, AMS, U.S. Department of Agriculture, at the field office nearest you. The addresses and phone numbers of these offices are:

EASTERN REGION

534 Appraisers Stores Bldg.
Baltimore, MD 21202
301-962-2474

P.O. Box 762
Easton, MD 21601
301-822-3383

1555 St. Joseph Avenue
East Point, GA 30344
404-526-7495

641 Washington Street, Rm. 860
New York, NY 10014
212-620-5716

601 U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106
215-597-4520

26 Forest Avenue
Portland, ME 04101
207-775-3131, ext. 243

Division of Markets
203 N. Governor Street
Richmond, VA 23219
804-770-2422

CENTRAL REGION

P.O. Bldg., Rm. 3
Albert Lea, MN 56007
507-373-2188

Rm. 2-1-58, Federal Center
74 N. Washington Avenue
Battle Creek, MI 49017
616-962-6511, ext. 6349

P.O. Box 970
Fayetteville, AR 72701
501-443-2301, ext. 573

Box 159
Hammond, LA 70401
504-345-6060

P.O. Box 96
Ripon, WI 54971
414-748-2287

P.O. Box 512
Van Wert, OH 45891
419-238-4105

P.O. Box 1123
Weslaco, TX 78596
512-968-2772

WESTERN REGION

353 U.S. Custom House
Denver, CO 80202
303-837-3160

1130 "O" Street, Rm. 3408
Fresno, CA 93721
209-487-5000, ext. 210

312 N. Spring Street, Rm. 1535
Los Angeles, CA 90012
213-688-3173

P.O. Box 5345
Salem, OR 97304
503-585-1793, ext. 248

B-45, State Capitol Bldg.
Salt Lake City, UT 84114
801-328-5421

1438 S. First Street
San Jose, CA 95110
408-275-7468

1917 First Avenue, Rm. 207
Seattle, WA 98101
206-442-7525

EASTERN REGION

Genesee Valley Regional Market
900 Jefferson Road
Rochester, NY 14623
716-244-2266

P.O. Box 10163
Santurce, PR 00908
809-783-4116

P.O. Box 860
Winter Haven, FL 33880
813-294-7416

CENTRAL REGION

U.S. Custom House, Rm. 1014
610 South Canal Street
Chicago, IL 60607
312-353-6215

WESTERN REGION

5635 Stratford Circle, Suite 11
Stockton, CA 95207
209-466-2671, ext. 281

212 Liberty Building
Yakima, WA 98901
509-248-4810, ext. 331

State of Hawaii
Department of Agriculture
P.O. Box 5425
Honolulu, HI 96814
808-941-3071

390 Main Street, Rm. 7093
San Francisco, CA 94105
415-556-4802

THE BRANCH ADMINISTRATIVE OFFICES ARE:**NATIONAL OFFICE**

Processed Products Standardization
and Inspection Branch
Fruit and Vegetable Division, AMS
U.S. Department of Agriculture
Washington, DC 20250
202-447-4693

EASTERN REGIONAL OFFICE

Rm. 0712, South Agriculture Bldg.
Processed Products Branch
F&V Division, AMS
Washington, DC 20250
202-447-7913

CENTRAL REGIONAL OFFICE

1010 U.S. Custom House
610 S. Canal Street
Chicago, IL 60607
312-353-6217

WESTERN REGIONAL OFFICE

390 Main Street, Room 7093
San Francisco, CA 94105
415-556-4800

UNITED STATES DEPARTMENT OF AGRICULTURE

TITLE 7 AGRICULTURE

Chapter 1 Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 52 PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS 1/

Subpart Regulations Governing Inspection and Certification

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1/ Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

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Authority: The provisions of this Part 52 issued under secs. 202-208, 60 Stat. 1078, as amended; 7 U.S.C. 1621-1627.

REGULATIONS GOVERNING INSPECTION AND CERTIFICATION

§52.1 Administration of regulations.

(a) The Administrator, Agricultural Marketing Service, United States Department of Agriculture is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the Agricultural Marketing Service of the Department, at his discretion.

(b) All services provided under the regulations of this part, including the hiring and licensing of inspection, grading, and sampling personnel shall be conducted without discrimination because of race, color, sex, religion, or National origin.

DEFINITIONS

§52.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand. For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

Acceptance number. "Acceptance number" means the number in a sampling plan that indicates the maximum number of deviants permitted in a sampling of a lot that meets a specific requirement.

Act. "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended: 7 U.S.C. 1621 et seq.), or any other act of Congress conferring like authority.

Administrator. "Administrator" means the Administrator of the Agricultural Marketing Service.

Applicant. "Applicant" means any interested party who requests inspection service under the regulations in this part.

Approved plant. See "Plant, approved".

Case, shipping case. "Case" or "shipping case" means a unit consisting of a given number of primary containers of the same size, the number and arrangement per unit conforming to customary trade practice.

For products not physically assembled into a shipping case (i.e. stacked bright) *case* means simulating the containers in such lot into a unit consisting of the same number of primary containers corresponding to customary trade practice (or corresponding to the unit as defined above.)

Certificate of loading. "Certificate of loading" means a statement, either written or printed, issued pursuant to the regulations in this part, relative to checkloading of a processed product subsequent to inspection thereof.

Certificate of sampling. "Certificate of sampling" means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

Class. See "Grade".

Condition. "Condition" means the degree of soundness of the product which may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage or improper handling.

Department. "Department" means the United States Department of Agriculture.

Deviant. "Deviant" means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

Deviation. "Deviation" means any specifically defined variation from a particular requirement.

Grade or class. "Grade" or "class" designates a level or rank of quality.

Grader. See "Inspector".

Inspection certificate. "Inspection certificate" means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

Inspection service, general. "Inspection service" means:

- (a) The sampling pursuant to the regulations in this part;
- (b) The determination pursuant to the regulations in this part of;
- (1) Essential characteristics such as style, type, size, sirup density or identity of any processed product which differentiates between major groups of the same kind;
- (2) The class, quality and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;
- (c) The issuance of any certificate of sampling, inspection certificates, or certificates of loading of a processed product, or any report relative to any of the foregoing; or
- (d) Performance by an inspector of any related services such as observing the preparation of the product from its raw state through each step in the entire process; observing conditions under which the product is prepared, processed, and packed; or observing plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkloading the inspected processed product in connection with the distribution or marketing thereof.

Inspection service; types of. (a) *Lot inspection* means the inspection and grading of specific lots of processed fruits and vegetables which are located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance or storage facility. Generally under "lot inspection" the inspector does not have knowledge of conditions and practices under which the product is packed and his grading is limited to examination of the finished processed product only.

(b) *continuous inspection* is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) are present at all times the plant is in operation to make in-process checks on the preparation, processing, packing, and warehousing of all products under contract and to assure compliance with sanitary requirements.

(c) *Pack certification* is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) perform inspection and grading services on designated lots. The inspector(s) may make in-process checks on the preparation and processing of products under contract but is not required to be present at all times the plant is in operation.

Inspector or grader. "Inspector" or "grader" means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

Inspector in charge. "Inspector in Charge" means any inspector designated on a plant working shift or in a field office laboratory as the inspector in charge of the inspection work when authorized by the Administrator to act in that capacity.

Inspector, subordinate. "Subordinate inspector" means any inspector assigned to a plant or field office to work under the direction of an inspector-in-charge.

Inspector's aide. "Inspector's aide" means any employee of the Department authorized to perform a limited number and type of duties under the close supervision of an inspector.

Interested party. "Interested party" means any person who has a financial interest in the commodity involved.

Licensed sampler. "Licensed sampler" means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Administrator, perform related services under the act and the regulations in this part.

Lot. "Lot" means any number of containers of the same size and type which contain a processed product of the same type and style located in the same warehouse or conveyance, and which is available for inspection service at any one time: *Provided*, that the number of containers comprising a lot may not exceed the maximum number specified for a sample size of 60 as outlined in the sampling plans in Section 52.38 of this subpart: *And further provided*, that (a) if the applicant requests a separate inspection certificate covering a specific portion of a lot, such portion must be separately marked or otherwise identified in such a manner as to permit sampling, inspection, and certification of such portion as a separate lot; and (b) under in-plant (in-process) inspection, the inspector is authorized to limit the number of containers of a processed product that may be included in a lot to the production of a single working shift when such production is not in compliance with specified requirements.

Officially drawn sample. "Officially drawn sample" means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Administrator pursuant to the regulations in this part.

Person. "Person" means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

Plant. "Plant" means the premises, buildings, structure, and equipment (including, but not being limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting and storage of fruits and vegetables, or the processed products thereof.

Plant, approved. "Approved plant" means any plant in which the facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with Sections 52.81 through 52.83 of this part.

Processed product. "Processed product" means any fruit, vegetable, or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

Quality. "Quality" means the inherent properties of any processed product which determine the relative degree of excellence of such product, and includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

Rejection number. "Rejection number" means the number in a sampling plan that indicates the minimum number of deviants in a sample that will cause a lot to fail a specific requirement.

Sample. "Sample" means any number of sample units to be used for inspection.

Sample unit. "Sample unit" means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity, or a composite mixture of a product used for inspection.

Sampling. "Sampling" means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

Secretary. "Secretary" means the Secretary of the Department or any other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary in respect to the matters covered by the regulations in this part.

Shipping container. "Shipping container" means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpacked processed products for shipping.

Unofficially drawn sample. "Unofficially drawn sample" means any sample that has been selected by any person other than an inspector or licensed sampler, or by any other person not authorized by the Administrator pursuant to the regulations in this part.

§52.3 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Sub-section 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

Official certificate. "Official certificate" means any form of certification, either written or printed, including those defined in §52.2 used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

Official device. "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the United States Department of Agriculture grade standards and to facilitate conduct of the inspection service.

Official identification. "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

Official mark. "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in §52.53 approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U.S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

Official memorandum. "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

INSPECTION SERVICE

§52.4 Where inspection service is offered.

Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

§52.5 Who may obtain inspection service.

An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§52.6 How to make application.

An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Administrator. Satisfactory proof that the applicant is an interested party shall be furnished.

§52.7 Information required in connection with application.

Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, such application shall be confirmed promptly in writing. In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product for which application for inspection is made, including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previous to the application by any Federal agency and the purpose for which inspection is desired.

§52.8 Filing of application.

An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this part.

§52.9 Record of filing time.

A record showing the date and hour when each application for inspection or for an appeal inspection is received shall be maintained.

§52.10 When application may be rejected.

An application for inspection service may be rejected by the Administrator

- (a) for non-compliance by the applicant with the regulations in this part,
- (b) for non-payment for previous inspection services rendered,
- (c) when the product is not properly identifiable by code or other marks, or
- (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

§52.11 When application may be withdrawn.

An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in §52.42 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

§52.12 Disposition of inspected sample.

Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

§52.13 Basis of inspection and grade or compliance determination.

(a) Inspection service shall be performed on the basis of the appropriate United States standards for grades of processed products, Federal, Military, Veterans Administration or other government agency specifications, written contract specifications, or any written specification or instruction which is approved by the Administrator.

(b) Unless otherwise approved by the Administrator, compliance with such grade standards, specifications, or instructions shall be determined by evaluating the product, or sample, in accordance with the requirements of such standards, specifications or instructions: *Provided*, That when inspection for quality is based on any U.S. grade standard which contains a scoring system, the grade to be assigned to a lot is the grade indicated by the average of the total of the scores of the respective sample units: *Provided further*, That--

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) With respect to those factors of quality which are rated by score points, each of the following requirements is met:

(i) None of the sample units falls more than one grade below the indicated grade because of any quality factor to which a limiting rule applies;

(ii) None of the sample units falls more than 4 score points below the minimum total score for the indicated grade;

(iii) The number of deviants does not exceed the applicable acceptance number indicated in the sampling plans contained in §52.38 ("deviants", as used in this paragraph, means sample units that fall into the next grade below the indicated grade but do not score more than 4 points below the minimum total score for the indicated grade);

(5) If any of the provisions contained in subparagraphs (3) and (4) of this paragraph (b) are not met, the grade is determined by considering such provisions in connection with succeeding lower grades until the grade of the lot, if assignable, is established; and

(6) When it is determined that a portion of a lot bearing a particular identification mark is of lower quality or deficient in other factors, the grade or compliance of the lot shall be no higher than that of the portion bearing the particular identification mark.

§52.14 Order of inspection service.

Inspection service shall be performed, insofar as practicable, in the order in which applications therefore are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§52.15 Postponing inspection service.

If the inspector determines that it is not possible to accurately ascertain the quality or condition of a processed product immediately after processing because the product has not reached equilibrium in color, syrup density, or drained weight, or for any other substantial reason, he may postpone inspection service for such period as may be necessary.

§52.16 Financial interest of inspector.

No inspector shall inspect any processed product in which he is directly or indirectly financially interested.

§52.17 Forms of certificates.

Inspection certificates, certificates of sampling or loading, and other memoranda concerning inspection service shall be issued on forms approved by the Administrator.

§52.18 Issuance of certificates.

- (a) The person signing and issuing the certificate shall be one of the following:
- (1) The inspector who performed the inspection.

(2) Another employee of the Inspection Service who has been given power of attorney by the inspector who performed the inspection and authorized by the Administrator to affix the inspector's signature to an inspection certificate.

(3) An inspector designated as the "inspector in charge," when the certificate represents composite inspection of several persons.

In all cases the inspection certificate shall be prepared in accordance with the facts set forth in the official memoranda made by the inspector or inspectors in connection with the inspection. Whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear under the name of the inspector who personally inspected the product, and whenever a certificate issued is signed by an inspector in charge that title must appear in connection with the signature.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided*, That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler and authorized by the Administrator to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

§52.19 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§52.20 Issuance of an inspection report in lieu of an inspection certificate.

A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided*, That, the issuance of such report is approved by the Administrator.

§52.21 Disposition of inspection certificates.

The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Administrator may designate. Additional copies of any such certificates may be supplied to any interested party as provided in §52.50.

§52.22 Report of inspection results prior to issuance of formal report.

Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other person designated by him, at his expense.

APPEAL INSPECTION

§52.23 When appeal inspection may be requested.

An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the Administrator the time within which an application for appeal inspection may be made may be extended.

§52.24 Where to file for an appeal inspection and information required.

(a) Application for an appeal inspection may be filed with:

(1) The inspector who issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§52.25 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in §52.42, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

§52.26 When appeal inspection may be refused.

An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested.

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§52.27 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Administrator and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided*, That, the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

§52.28 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who received copies of the superseded certificate.

LICENSING OF SAMPLERS AND INSPECTORS

§52.29 Who may become a licensed sampler.

Any person deemed to have the necessary qualifications may be licensed as a licensed sampler to draw samples for the purpose of inspection under the regulations in this part. Such a license shall bear the printed signature of the Secretary, and shall be countersigned by an authorized employee of the Department. Licensed samplers shall have no authority to inspect processed products under the regulations in this part except as to identification and condition of the containers in a lot. A licensed sampler shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

§52.30 Application to become a licensed sampler.

Application to become a licensed sampler shall be made to the Administrator on forms furnished for that purpose. Each such application shall be signed by the applicant in his own handwriting, and the information contained therein shall be certified by him to be true, complete, and correct to the best of his knowledge and belief and the application shall contain or be accompanied by:

- (a) A statement showing his present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the ten years previous to the date of his application;
- (b) A statement that, in his capacity as a licensed sampler, he will not draw samples from any lot of processed products with respect to which he or his employer is an interested party;
- (c) A statement that he agrees to comply with all terms and conditions of the regulations in this part relating to duties of licensed samplers; and
- (d) Such other information as may be requested.

§52.31 Inspectors.

Inspections will ordinarily be performed by employees under the Administrator who are employed as Federal Government employees for that purpose. However, any person employed under any joint Federal-State inspection service arrangement may be licensed, if otherwise qualified, by the Secretary to make inspections in accordance with this part on such processed products as may be specified in his license. Such license shall be issued only in a case where the Administrator is satisfied that the particular person is qualified to perform adequately the inspection service for which such person is to be licensed. Each such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. An inspector shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

§52.32 Suspension or revocation of license of licensed sampler or licensed inspector.

Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid seven days period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

§52.33 Surrender of license.

Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

SAMPLING

§52.34 How samples are drawn by inspectors or licensed samplers.

An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Administrator, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a representative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

§52.35 Accessibility for sampling.

Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

§52.36 How officially drawn samples are to be identified.

Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

§52.37 How samples are to be shipped.

Unless otherwise directed by the Administrator, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the sample of the processed product. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant and wherever practicable, such charges shall be prepaid by him.

§52.38 Sampling plans and procedures for determining lot compliance.

(a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the Administrator, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable sampling plans: *Provided*, That at the discretion of the inspection service of the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size, the lot fails the requirement.

(c) If in the conduct of on-line in-plant inspection of a product covered by a grade standard which does not contain sampling plans, the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot, but does not equal any of the prescribed larger sample sizes, the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size, additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size, the lot fails the requirement.

(d) In the conduct of on-line in-plant inspection, sampling may be performed on a time interval basis. The sampling frequency shall be specified in an applicable grade standard or other procedural instruction approved by the Administrator.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, and V and (g) (1) and (g) (2) of this section which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container, size and amount of product to be sampled.

(g) (1) *Sampling plan for Dried Figs.* For each 10,000 pounds (or fraction of 10,000 pounds) of product - 6 sample units of approximately 35 figs each accumulated into 1 composite (at least 200 figs). Each composite will be examined separately, and all must meet the requirement for the U.S. Grade.

(2) *Sampling plan for Dried Fruits other than Dates and Figs.* For each 15,000 pounds (or fraction of 15,000 pounds) of product - 6 sample units of approximately 16 ounces each accumulated into 1 composite (at least 100 ounces). Each composite will be examined separately and all must meet the requirements for the U.S. Grade.

SAMPLING PLANS AND ACCEPTANCE LEVELS

TABLE I - CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

CONTAINER SIZE GROUP	LOT SIZE (NUMBER OF CONTAINERS) ^{1/}					
	3,000 OR LESS	3,001 TO 12,000	12,001 TO 39,000	39,001 TO 84,000	84,001 TO 145,000	145,001 TO 228,000
GROUP 1 ANY TYPE CONTAINER OF A VOLUME NOT EXCEEDING THAT OF A NO. 303 SIZE CAN.						
GROUP 2 ANY TYPE OF CONTAINER OF A VOLUME EXCEEDING THAT OF A NO. 303 SIZE CAN BUT NOT EXCEEDING THAT OF A NO. 3 CYLINDER SIZE CAN						
GROUP 3 ANY TYPE OF CONTAINER OF A VOLUME EXCEEDING THAT OF A NO. 3 CYLINDER SIZE CAN, BUT NOT EXCEEDING THAT OF A NO. 12 SIZE CAN						
GROUP 4 ANY TYPE OF CONTAINER OF A VOLUME EXCEEDING THAT OF A NO. 12 SIZE CAN						
LOT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) ^{2/} ACCEPTANCE NUMBER	3	6	13	21	29	38
ON-LINE IN-PLANT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) ^{2/} ACCEPTANCE NUMBER	0	1	2	3	4	5

^{1/} Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

^{2/} When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3 -- 1 container and its entire contents. Group 4 approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II - FROZEN OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

CONTAINER SIZE GROUP	LOT SIZE (NUMBER OF CONTAINERS) <u>1/</u>					
GROUP 1 ANY TYPE OF CONTAINER OF 1 POUND OR LESS NET WEIGHT.	2,400 OR LESS	2,401 TO 9,600	9,601 TO 31,200	31,201 TO 67,200	67,201 TO 116,000	116,001 TO 182,400
GROUP 2 ANY TYPE OF CONTAINER OVER 1 POUND BUT NOT OVER 2-1/2 POUNDS NET WEIGHT.	1,200 OR LESS	1,201 TO 4,800	4,801 TO 15,600	15,601 TO 33,600	33,601 TO 58,000	58,001 TO 91,200
GROUP 3 ANY TYPE OF CONTAINER OVER 2-1/2 POUNDS						

CONVERT TO EQUIVALENT NUMBER OF 2-1/2 POUND CONTAINERS AND USE GROUP 2

LOT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) <u>2/</u> ACCEPTANCE NUMBER	3	6	13	21	29	38	48	60
ON-LINE IN-PLANT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) <u>2/</u> ACCEPTANCE NUMBER	0	1	2	3	4	5	6	7

1/ Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

2/ When a standard sample unit size is not specified in the U.S. standards, the sample units for the various groups are as follows: Groups 1 and 2 - 1 container and its entire contents. Group 3 containers over 10 pounds - approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

TABLE III - CANNED, FROZEN, OR OTHERWISE PROCESSED FRUITS, VEGETABLES, RELATED PRODUCTS OF A COMMINUTED, FLUID OR HOMOGENEOUS STATE

CONTAINER SIZE GROUP	LOT SIZE (NUMBER OF CONTAINERS) 1/					
GROUP 1 ANY TYPE OF CONTAINER OF 1 POUND OR LESS.	4,500 OR LESS	4,501 TO 18,000	18,001 TO 58,500	58,501 TO 126,000	126,001 TO 217,000	217,001 TO 342,000
GROUP 2 ANY TYPE OF CONTAINER EXCEEDING 1 POUND BUT NOT EXCEEDING 3 POUNDS.	3,000 OR LESS	3,001 TO 12,000	12,001 TO 39,000	39,001 TO 84,000	84,001 TO 145,000	145,001 TO 228,000
GROUP 3 ANY TYPE OF CONTAINER EXCEEDING 3 POUNDS BUT NOT EXCEEDING 10 POUNDS.	1,500 OR LESS	1,501 TO 6,000	6,001 TO 19,500	19,501 TO 42,000	42,001 TO 72,500	72,501 TO 114,000
GROUP 4 ANY TYPE OF CONTAINER EXCEEDING 10 POUNDS.	— 8					

CONVERT TO EQUIVALENT NUMBER OF 6 POUND CONTAINERS AND USE GROUP 3

LOT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) 2/	3	6	13	21	29	38	48	60
ACCEPTANCE NUMBER	0	1	2	3	4	5	6	7
ON-LINE IN-PLANT INSPECTION: SAMPLE SIZE (NO. OF SAMPLE UNITS) 2/	3	6	13	21	29	38	48	60
ACCEPTANCE NUMBER	0	1	1	2	3	4	5	6

1/ Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

2/ When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3 — 1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the inspector's discretion. Group 4 — approximately 16 ounces of product. When determined by the inspector that a 16 ounce sample unit is inadequate, a larger sample unit may be substituted. I.

TABLE IV - DEHYDRATED (LOW-MOISTURE) FRUITS AND VEGETABLES

CONTAINER SIZE GROUP		LOT SIZE (NUMBER OF CONTAINERS) 1/					
GROUP 1 ANY TYPE OF CONTAINER OF 1 POUND OR LESS NET WEIGHT.	1,800 OR LESS	1,801 TO 7,200	7,201 TO 23,400	23,401 TO 50,400	50,401 TO 87,000	87,001 TO 136,800	136,801 TO 201,600
GROUP 2 ANY TYPE OF CONTAINER OVER 1 POUND BUT NOT OVER 6 POUNDS NET WEIGHT.	600 OR LESS	601 TO 2,400	2,401 TO 7,800	7,801 TO 16,800	16,801 TO 29,000	29,001 TO 45,600	45,601 TO 67,200
GROUP 3 ANY TYPE OF CONTAINER OVER 6 POUNDS.	19	CONVERT TO EQUIVALENT NUMBER OF 5 POUND CONTAINERS AND USE GROUP 2.					

19

SAMPLE SIZE 2/
ACCEPTANCE NUMBER

3 0	6 1	13 2	21 3	29 4	38 5	48 6	60 7
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1/ Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

2/ When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Group 1 --- 1 container and its entire contents, Groups 2 and 3 --- 1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.

TABLE V - DATES

CONTAINER SIZE GROUP		LOT SIZE (NUMBER OF CONTAINERS) 1/					
GROUP 1 ANY TYPE OF CONTAINER OF 1 POUND OR LESS NET WEIGHT	2,400 OR LESS	2,401 TO 9,600	9,601 TO 31,200	31,201 TO 67,200	67,201 TO 116,000	116,001 TO 182,400	182,401 TO 268,800
GROUP 2 ANY TYPE OF CONTAINER OVER 1 POUND BUT NOT OVER 5 POUNDS NET WEIGHT.	800 OR LESS	801 TO 3,200	3,201 TO 10,400	10,401 TO 22,400	22,401 TO 38,667	38,668 TO 60,800	60,801 TO 89,600
GROUP 3 ANY TYPE OF CONTAINER OVER 5 POUNDS.		CONVERT TO EQUIVALENT NUMBER OF 5 POUND CONTAINERS AND USE GROUP 2.					

SAMPLE SIZE 2/
ACCEPTANCE NUMBER

3	6	13	21	29	38	48	60
0	1	2	3	4	5	6	7

1/ Under in-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

2/ Samples consist of 25 ounce sample units, each of which may be a composite of product from a sufficient number of individual containers from 1 case to make up the weight. When previous inspection results from a particular source so indicate, 1 composite sample of 25 ounces of product may be formed from the 3 sample units in the smallest sample size, and 2 composite samples of 25 ounces each may be formed from the 6 sample units in the next to smallest sample size. Sample units in larger sample sizes may not be further composited.

§52.39 Issuance of certificate of sampling.

Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that an inspector who inspects the samples which he has drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the inspector or licensed sampler (as the case may be) and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Administrator.

§52.40 Identification of lots sampled.

Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by the Administrator, if such lots do not otherwise possess suitable identification.

FEES AND CHARGES

§52.41 Payment of fees and charges.

Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Administrator, or a surety bond suitable to the Administrator, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service performed pursuant to the regulations in this part shall be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted to the office of inspection serving the area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Administrator, in which latter event the contract provisions shall apply.

§52.42 Schedule of Fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, including analyses specified in 52.47, shall be at the rate of \$12.60 per hour.

§52.43 Fees to be charged and collected for sampling when performed by a licensed sampler.

Such sampling fees as are specifically prescribed by the Administrator in connection with the licensing of the particular sampler (which fees are to be prescribed in the light of the sampling work to be performed by such sampler and other pertinent factors) may be assessed and collected by such licensed sampler directly from the applicant: *Provided*, That, if such licensed sampler is an employee of a State, the appropriate authority of that State may make the collection, or they may be assessed and collected by the office of inspection serving the area where the services are performed.

§52.44 Inspection fees when charges for sampling have been collected by a licensed sampler.

For any lot of processed products from which a sample is drawn by a licensed sampler and the applicable sampling fee is collected by the licensed sampler or appropriate authority, as provided in §52.43, the fees for other inspection services with respect to such lot shall not include charges for sampling.

§52.45 Inspection fees when charges for sampling have not been collected by a licensed sampler.

For any lot of processed products from which a sample is drawn by a licensed sampler and the sampling fee is not collected by the licensed sampler or the appropriate authority, as provided in §52.43, the fees and charges for inspection services with respect to such lot shall be the applicable fees and charges prescribed in §52.42.

§52.46 Fee for appeal inspection.

The fee to be charged for an appeal inspection shall be at the rates prescribed in this part for other inspection services: *Provided*, That, if the result of any appeal inspection made for any applicant, other than the United States or any agency or instrumentality thereof, discloses that a material error was made in the inspection on which the appeal is made, no inspection fee shall be assessed.

§52.47 Charges for micro, chemical and certain other special analyses.

(a) The applicable times listed in this section shall be used for computation of charges for micro, chemical and certain other special analyses when any of these analyses are made at the request of the applicant or because of additional specification requirements and are not performed in connection with the normal inspection to determine the quality or condition of the product.

Type of Analysis	Hours For First Analysis	Hours For Each Additional Analysis
Alcohol insoluble solids.....	1	1/2
Alcohol (distillation and specific gravity).....	2	1-1/2
Ascorbic acid (vitamin C).....	1	1/4
Ash, acid insoluble.....	1-1/2	1
Ash, total (carbonated or sulfated).....	1	1/2
Ash, water soluble or water insoluble.....	1-1/2	1
Ash, NaCl Free (approximate method--total ash less NaCl)	1-1/2	1
Ash, NaCl Free (P ₂ O ₅ X 2).....	2-1/2	1-1/2
Brix reading (double dilution).....	1	1/2
Brix reading (refractometric or spindle).....	1/2	1/4
Catalase test.....	1/2	1/2
Color determination of extracted honey.....	1/2	1/4
Color determination of sugarcane molasses or sugarcane sirup.....	1/2	1/4
Diastase test for honey (AOAC Method).....	2	1
Ether Extract (crude fat).....	1-1/2	1
Fat (acid hydrolysis).....	1-1/2	1
Fiber test (green and wax beans).....	1	1/2
Fly egg and maggot count.....	1/2	1/4
Free fatty acids.....	1/2	1/4
Iodine number.....	1-1/2	1
Moisture (drying method).....	1/2	1/2
Mold Count		
Direct Smear.....	1/2	1/2
Centrifuge or dilution.....	3/4	1/2
Pulping.....	1	3/4
Nitrogen or crude protein.....	1-1/2	1
Nonvolatile ether extract.....	1-1/2	1
Oil volatile.....	1	1
Phosphorous pentoxide (P ₂ O ₅).....	2-1/2	1-1/2
Potash (K ₂ O).....	2-1/2	1-1/2
Peroxidase test (frozen vegetables).....	1/2	1/2
Recoverable oil (citrus juices).....	1	1/2
Reducing sugars.....	2	1

Type of Analysis	Hours For First Analysis	Hours For Each Additional Analysis
Salt (NaCl -- direct titration).....	1/2	1/4
Soluble solids (refractometric method).....	1/2	1/4
Sucrose (chemical methods).....	2-1/2	1-1/2
Sucrose (direct polarization).....	1	1/2
Starch or carbohydrates (direct hydrolysis).....	2-1/2	1-1/2
Sulphur dioxide (direct titration).....	1	1/2
Sulphur dioxide (distillation method).....	1-1/2	1
Sodium.....	1-1/2	1
Total acidity (direct titration).....	1/2	1/4
Total solids (drying method).....	1/2	1/2
Tough string test (green and wax beans).....	1/2	1/2
Vanillin (colorimetric).....	1	1/2
Volatile and nonvolatile ether extract.....	1-1/2	1
Water-insoluble-inorganic-residue.....	1	1/2
Water insoluble solids.....	1-1/2	1
Worm larvae and insect fragment count.....	1	3/4

(b) The following charges shall be made for certain other special analyses whether or not made in connection with an inspection to determine quality and condition of the product:

Type of analyses:

Aflatoxin in peanuts and peanut products
(thin layer, chromatography methods) ... \$15.00

§52.48 Charges for plant survey and inspection.

(a) The fees to be charged for a plant survey and inspection shall be at the rates prescribed in sections 52.42 and 52.51 of this part.

(b) Fees charged for plant survey and inspection under section 52.42 of this part will be credited back to plants entering into an inspection contract with AMS within 60 days of the survey.

§52.49 Charges for copies of score sheets.

If the applicant for inspection service requests one or more copies of a score sheet referable to the processed product covered thereby, he may obtain such copies from the Inspector in charge of the office of inspection serving the area where the service was preformed at a charge of 1/2 hour per copy: Provided, That, no charge shall be made for one copy if requested in connection with the request for inspection.

§52.50 Charges for additional copies of inspection certificates.

Charges for additional copies of inspection certificates issued in accordance with §52.21 may be supplied to any interested party at a charge for such copies at the rate of 1/2 hour for each seven (7), or fewer, copies.

§52.51 Travel and other expenses.

Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service, including appeal inspections: *Provided*, That, if charges for sampling or inspection are based on an hourly rate, an additional hourly charge may be made for travel time including time spent waiting for transportation as well as time spent traveling, but not to exceed eight hours of travel time for any one person for any one day: *And provided further*, That, if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

§52.52 Charges for inspection services on a contract basis.

(a) Irrespective of fees and charges prescribed in foregoing sections, or in this section, the Administrator may enter into contracts with applicants to perform continuous inspection services or other types of inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection service provided in such contracts shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator.

(b) Irrespective of fees and charges prescribed in the foregoing sections, or in this section, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator. Likewise, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with an administration of a similar program operated pursuant to the laws of any State.

(c) Charges for year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector and inspector's aide assigned to perform the inspection services in accordance with the following schedules:

(1) For personnel assigned on a year-round basis:

Inspector(s)-in-charge -- \$10.10 per hour.
Subordinate inspector(s) -- 7.35 per hour.
Inspector's aide(s) -- 5.55 per hour.

(2) For personnel assigned on less than a year-round basis:

Inspector(s)-in-charge -- \$11.00 per hour.
Subordinate inspector(s) -- 8.10 per hour.
Inspector's aide(s) -- 5.55 per hour.

(3) *Travel expense.* Since travel time and other travel costs in reporting to an assignment under this type agreement are covered in the hourly rate, no additional reporting charges will be made.

(4) *Holiday pay.* Eight (8) hours will be charged each holiday for each person assigned, whether or not work is performed. A 50 percent additional charge will be made for each hour worked up to 8 hours. For each hour worked above 8 hours the regular hourly rate will be charged.

(5) *Night differential.* A 10 percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m.

(6) *Overtime.* All overtime hours will be charged at the regular rates specified herein rather than at an increased rate.

(d) Charges for less than year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector and inspector's aide assigned to perform the inspection services in accordance with the following schedules:

(1) Each inspector assigned - first 280 hours - \$15.70 per hour.
Each inspector assigned - in excess of 280 hours - 11.50 per hour.
Each inspector's aide --- all hours -- 5.55 per hour.

(2) *Travel expense.* The above rates apply to hours worked on the assignment. The salary for inspectors enroute and other travel expenses including per diem will not be billed for inspectors assigned on this contract.

(3) *Holiday pay.* In addition to the above charges, 8 hours will be charged for each person assigned each holiday whether or not work is performed. An additional 50 per cent, not to exceed \$5.75 per hour, will be charged for each hour worked up to 8 hours. The regular rate will be charged for all hours worked over 8 hours.

(4) *Night differential.* A 10 percent differential, not to exceed \$1.15 per hour, will be charged for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime.* All overtime hours will be charged at the regular rates specified herein rather than at an increased rate.

(e) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

MISCELLANEOUS

§52.53 Approved identification.

(a) *General.* Use of the approved identification marks described and illustrated in figures 1 through 8 of this section is restricted to processed products that:

- (1) are clean, safe, and wholesome;
- (2) have been produced in an approved plant;
- (3) are truthfully and accurately labeled;
- (4) meet the quality requirements for U.S. Grade C or better;
- (5) meet applicable fill weight and/or drained weight, condition of container criteria, Brix or other characteristics of a commodity related to market value.

(6) have been certified, or have been inspected and are eligible for certification, by an inspector; and, in addition, meet the specific requirements stated in (b), (c), and (d) of this section.

(b) *Inspection (Continuous) grade and inspection marks.* The grade and inspection marks approved for use by plants operating under USDA continuous inspection service contracts shall be similar in form and design to the examples in figures 1 through 8 of this section. The inspection marks illustrated in figures 1 through 4 may only be used on products packed by plants operating under USDA continuous inspection.

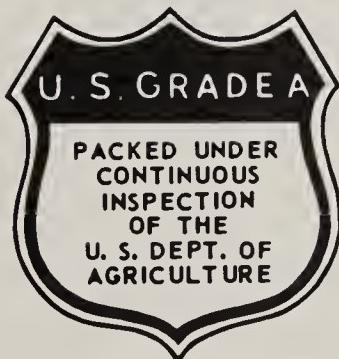


Figure 1

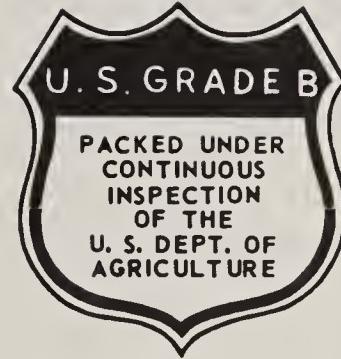


Figure 2

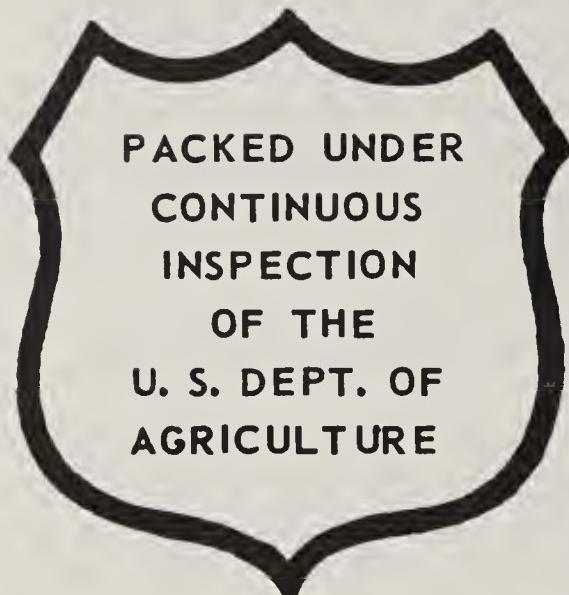


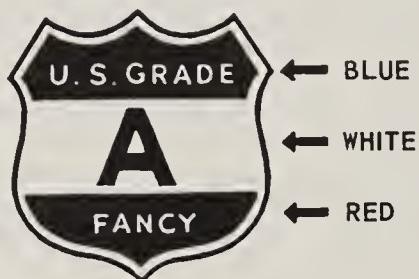
Figure 3

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
AGRICULTURE

Statement without the use of the shield.

Statement enclosed
within a shield.

(c) *Contract in-plant inspection (other than continuous) grade marks.* The grade marks for use by plants operating under USDA contract inspection service (other than continuous) requiring a resident inspector shall be similar in form and design to the examples in figures 5 through 8 of this section.



Shield using red, white, and blue background
or other colors appropriate for label.

Figure 5



Shield with plain
background.

Figure 6



Figure 7

Shield with plain
background.

(d) *Approved plant-lot inspection grade marks.* Processed products that are produced in an approved plant and inspected and certified by an inspector on a lot basis may be labeled with the official mark illustrated in figure 8. Failure to have all lots, bearing such official marks, inspected and certified shall be cause for the debarment of services and such other actions as provided for in the Agricultural Marketing Act of 1946.

U. S. GRADE A

U. S. CHOICE

Figure 8

Statement without the use of the shield.

(e) *Sampling marks.* Processed products which have been packed under inspection as provided for in this section and products sampled for inspection on a lot inspection basis as provided in this part may, at the option of the Department, be identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sampling mark similar in form and design to the example in figure 9 of this section: *Provided:* That the stamp will not be placed on shipping cases where any grade designation is on the case or packages unless the product has been inspected and meets such grades.



Figure 9

(f) Removal of labels bearing approved grade or inspection marks (figures 1 through 8).

(1) At the time a lot of processed products, bearing approved grade or inspection marks (figures 1 through 8) is found to be mislabeled, the processor shall separate and retain such lot for relabeling. Removal and replacement of labels shall be done, under the supervision of a USDA inspector within ten (10) consecutive calendar days or within such period of time as may be mutually agreed by the processor and USDA.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products have been properly labeled.

(3) Clearance for the release of the relabeled product shall be obtained, by the processor, from the inspector.

(g) *Licensing and identification of certain official devices.* The Administrator may issue license permitting the manufacture, identification, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be recoverable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

(h) *Prohibited uses of approved identification.* Except as specified in this section, no label or advertising material used upon, or in conjunction with, a processed product, as defined by these Regulations, shall bear a brand name, trade mark, product name, company name, or any other descriptive material that incorporates, resembles, simulates, or alludes to, any official U.S. Department of Agriculture certificate of quality or loading, grade mark, grade statement (except honey and maple syrup which may bear such grade mark or statement), continuous inspection mark, continuous inspection statement, sampling mark or sampling statement, or combinations of one or more thereof.

§52.54 Debarment of service.

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in 7 CFR 50 shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any misrepresentation or deceptive or fraudulent practice or act found to be made or committed in connection with:

(i) The making or filing of an application for any inspection service;

(ii) The submission of samples for inspection;

(iii) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(iv) The use of the words "Packed under continuous inspection of the U.S. Department of Agriculture", any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(v) The use of a facsimile form which simulates in whole or in part any official U.S. certificate for the purpose of purporting to evidence the U.S. grade of any processed product.

(2) *Wilful violation of the regulations in this subpart.* Wilful violation of the provisions of this part of the Act.

(3) *Interfering with an inspector, inspector's aide, or licensed sampler.* Any interference with, obstruction of, or attempted interference with, or attempted obstruction of any inspector, inspector's aide, or licensed sampler in the performance of his duties by intimidation, threat, assault, bribery, or any other means -- real or imagined.

§52.55 Political activity.

All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§52.57 Compliance with other laws.

None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.

§52.58 Identification.

Each inspector and licensed sampler shall have in his possession at all times and present upon request, while on duty, the means of identification furnished by the Department to such person.

REQUIREMENTS FOR PLANTS TO BE APPROVED AND FOR PLANTS USING CONTRACT IN-PLANT INSPECTION SERVICES. 1/

§52.81 Plant survey.

Prior to a plant being approved, or the inauguration of in-plant inspection services, and at such intervals as may be deemed necessary or appropriate, the Administrator will make, or cause to be made, a survey and inspection of the plant where such inspection services are to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such service in accordance with:

(1) The regulations in this part, including, but not limited to, the requirements contained in §52.81 through 52.83; and

(2) The terms and provisions of any contract pursuant to which the service is to be performed; *Provided*, That, such survey(s) shall be repeated at least yearly.

1/ Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

§52.82 Basis of survey and plant inspection.

The plant survey and inspection will be based on the Regulations issued under the Federal Food, Drug, and Cosmetic Act -- Human Foods; Good Manufacturing Practice (Sanitation) in Manufacture, Processing, Packing, or Holding (21 CFR 128 -- as may be modified or augmented by the Federal Food and Drug Administration, U.S. Department of Health, Education, and Welfare or the Administrator of the Agricultural Marketing Service.

§52.83 Reporting results of the plant survey and inauguration of inspection services.

- (1) Results of the plant survey shall be reported in writing to a designated plant official.
- (2) When the plant meets the requirements of the survey, inspection services may be inaugurated at a time mutually satisfactory to the plant management and USDA.
- (3) When the plant fails the requirements of the survey, contract services shall be withheld until corrective action is completed to the satisfaction of the USDA.

